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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,217	02/03/2006	Rainer Hilbig	DE030279	4186

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EXAMINER

GREEN, TRACIE Y

ART UNIT	PAPER NUMBER
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2879

MAIL DATE	DELIVERY MODE
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05/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,217	Applicant(s) HILBIG ET AL.	
	Examiner TRACIE Y. GREEN	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/03/2006 and 04/20/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 5 describes the "use" of an electron emitter material but it is unclear as to what this means as far as the disclosed invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word "use" in claim 5 fails to provide an understanding of

Art Unit: 2879

what the applicant is calling their invention. *(For purposes of examination, examiner will assume the "electron emitter material" is to placed in the discharge lamp)*

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This claim is directed towards the use of something. The "use of something" does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter). It is not a process no procedural steps are given, nor is it a manufacture, machine or composition of matter because "use" claims do not render structural limitations.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. (US 2003/0001505) in view of Ikeuchi et al. (US 6,486,603).

Regarding Claim 1, Scholl et al. teaches (Scholl, hereafter) teaches a low-pressure gas discharge lamp (Figure 1) equipped with a gas discharge vessel (4) containing, as a buffer gas, an inert gas filling (Paragraph 29, lines 1-3) and an indium halogenide, thallium halogenide, gallium halogenide and/or copper halogenides (Paragraph 6, lines 1-7), and with electrodes (2) and means for generating and maintaining a low-pressure gas discharge, characterized in that said low-pressure gas discharge lamp comprises one or more chalcogenides (Paragraph 30)

Scholl et al. is silent regarding alkaline earth metals as electron emitter material.

In the same field of endeavor of discharge devices, Ikeuchi et al. teaches alkaline earth metals as electron emitter material (column 6, lines 38-41) in order to provide a device which will not have corrosion due to the use of chalcogenic material, as well as improved and well maintained brightness (column 6 lines 40-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the discharge lamp of Scholl with one or more chalcogenides of alkaline earth metals as electron emitter material in order to provide a device which will not have corrosion due to the use of chalcogenic material, as well as improved and well maintained brightness as taught by Ikeuchi et al.

Regarding claim 2, Scholl teaches the chalcogenide is selected from the group formed by sulphides, selenides and/or tellurides (Paragraphs 14 and 16)

Regarding claim 3, Scholl teaches it contains, as a buffer gas, an inert gas selected from the group formed by helium, neon, argon, krypton and xenon. (Paragraph 21)

Regarding claim 4, Scholl teaches (Figure 1) the gas discharge vessel comprises a luminophor coating (4) applied to the inside and/or the outside. (Paragraph 22, lines 1-3)

Regarding claim 5, Scholl is silent regarding alkaline earth metals as electron emitter material for coating electrodes in discharge lamps.

In the same field of endeavor of discharge devices, Ikeuchi et al. teaches (Figure 1) one or more chalcogenides of alkaline earth metals as electron emitter material (Column 6, lines 35-40) for coating electrodes (3) in discharge lamps in order to provide a device which will not have corrosion due to the use of chalcogenic material, as well as improved and well maintained brightness (column 6 lines 40-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the discharge lamp of Scholl with one or more chalcogenides of alkaline earth metals as electron emitter material for coating electrodes in discharge lamps in order to provide a device which will not have corrosion due to the use of chalcogenic material, as well as improved and well maintained brightness as taught by Ikeuchi et al.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRACIE Y. GREEN whose telephone number is

Art Unit: 2879

(571)270-3104. The examiner can normally be reached on Monday-Thursday, 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571/272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tracie Y Green/
Examiner, Art Unit 2879

/Sikha Roy/
Primary Examiner, Art Unit 2879